

AMENDED IN ASSEMBLY JUNE 2, 2014

AMENDED IN SENATE MAY 14, 2013

**SENATE BILL**

**No. 702**

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**Introduced by Senator Anderson**

February 22, 2013

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An act to ~~add Section 585.1 to the Code of Civil Procedure~~ amend *Section 538d of the Penal Code*, relating to ~~civil procedure~~ *criminal law*.

LEGISLATIVE COUNSEL'S DIGEST

SB 702, as amended, Anderson. ~~Application for entry of default judgment.~~ *Criminal law: badges: impersonation.*

*Existing law makes it a crime for a person who is not a peace officer to impersonate a peace officer. Specifically, existing law makes it a misdemeanor for any person to willfully wear, exhibit, or use any badge, insignia, emblem, device, label, certificate, card, or writing that falsely purports to be authorized for use by a peace officer, as specified.*

*This bill would increase the punishment for that offense to imprisonment in a county jail for up to one year; a fine up to \$2,000, or both that imprisonment and fine. The bill would also require a local law enforcement agency in the jurisdiction that files charges against a person for a violation of these provisions to seize the item at issue. The bill would prohibit a person convicted of a violation of these provisions from holding public office in this state.*

*By increasing the punishment for a crime and adding to the duties of local governmental entities, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.*

*Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law provides that a default judgment may be taken upon written application of the plaintiff if the defendant fails to answer the complaint, as specified. Existing law also authorizes the court to permit the use of affidavits, in lieu of personal testimony, as to all or any part of the evidence or proof required or permitted to be offered in those cases.~~

~~This bill would require the plaintiff's application for entry of a default judgment to include specified information, and would authorize a party that has been permitted by the court to use affidavits in lieu of personal testimony to use affidavits to comply with those requirements, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 538d of the Penal Code is amended to*  
2     *read:*

3     538d. (a) Any person other than one who by law is given the  
4     authority of a peace officer, who willfully wears, exhibits, or uses  
5     the authorized uniform, insignia, emblem, device, label, certificate,  
6     card, or writing, of a peace officer, with the intent of fraudulently  
7     impersonating a peace officer, or of fraudulently inducing the  
8     belief that he or she is a peace officer, is guilty of a misdemeanor.

9     (b) (1) Any person, other than the one who by law is given the  
10    authority of a peace officer, who willfully wears, exhibits, or uses  
11    the badge of a peace officer with the intent of fraudulently  
12    impersonating a peace officer, or of fraudulently inducing the  
13    belief that he or she is a peace officer, is guilty of a misdemeanor  
14    punishable by imprisonment in a county jail not to exceed one  
15    year, by a fine not to exceed two thousand dollars (\$2,000), or by  
16    both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge of a peace officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) (1) Except as provided in subdivision (d), any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer as would deceive an ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, is guilty of a misdemeanor *punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine*, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars (\$15,000).

(2) *A local law enforcement agency in the jurisdiction that files charges against a person of a violation of paragraph (1) shall seize the badge, insignia, emblem, device, label, certificate, card, or writing described in paragraph (1).*

(3) *Any person who is convicted of a violation of paragraph (1) on or after January 1, 2015, shall be disqualified from holding public office in this state.*

(d) (1) The head of an agency that employs peace officers, as defined in Sections 830.1 and 830.2, is authorized to issue identification in the form of a badge, insignia, emblem, device, label, certificate, card, or writing that clearly states that the person has honorably retired following service as a peace officer from that agency. The identification authorized pursuant to this

subdivision is separate and distinct from the identification authorized by Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

(2) If the head of an agency issues a badge to an honorably retired peace officer that is not affixed to a plaque or other memento commemorating the retiree's service for the agency, the words "Honorably Retired" shall be clearly visible above, underneath, or on the badge itself.

(3) The head of an agency that employs peace officers as defined in Sections 830.1 and 830.2 is authorized to revoke identification granted pursuant to this subdivision in the event of misuse or abuse.

(4) For the purposes of this subdivision, the term "honorably retired" does not include an officer who has agreed to a service retirement in lieu of termination.

(e) (1) Vendors of law enforcement uniforms shall verify that a person purchasing a uniform identifying a law enforcement agency is an employee of the agency identified on the uniform. Presentation and examination of a valid identification card with a picture of the person purchasing the uniform and identification, on the letterhead of the law enforcement agency, of the person buying the uniform as an employee of the agency identified on the uniform shall be sufficient verification.

(2) Any uniform vendor who sells a uniform identifying a law enforcement agency, without verifying that the purchaser is an employee of the agency, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(3) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified law enforcement agency.

*SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

1 *However, if the Commission on State Mandates determines that*  
2 *this act contains other costs mandated by the state, reimbursement*  
3 *to local agencies and school districts for those costs shall be made*  
4 *pursuant to Part 7 (commencing with Section 17500) of Division*  
5 *4 of Title 2 of the Government Code.*

6 ~~SECTION 1. Section 585.1 is added to the Code of Civil~~  
7 ~~Procedure, to read:~~

8 ~~585.1. (a) A plaintiff applying for entry of a default judgment~~  
9 ~~pursuant to subdivision (a) of Section 585 shall include in the~~  
10 ~~application all of the following:~~

11 ~~(1) The name of the plaintiff.~~

12 ~~(2) A statement that the plaintiff is the sole party entitled to the~~  
13 ~~money or damages at issue, or has authority to assert the rights of~~  
14 ~~all parties entitled to the money or damages at issue.~~

15 ~~(3) The amount of money or damages sought and the basis~~  
16 ~~therefor.~~

17 ~~(4) The amount of costs, if any, sought and the basis therefor.~~

18 ~~(5) The amount of attorney's fees, if any, sought and the basis~~  
19 ~~therefor.~~

20 ~~(6) A proof of service of summons for each party to be included~~  
21 ~~in the default judgment.~~

22 ~~(7) A request to enter default, if not already filed, pursuant to~~  
23 ~~Rule 3.1800 of the California Rules of Court.~~

24 ~~(8) A proposed form of judgment.~~

25 ~~(9) Any other information or documentation required by the~~  
26 ~~court or under any other provision of law.~~

27 ~~(b) A party seeking the entry of a default judgment pursuant to~~  
28 ~~subdivision (a) of Section 585 may, to the extent permitted under~~  
29 ~~subdivision (d) of Section 585, use affidavits in order to comply~~  
30 ~~with this section.~~